

REMARKS/ARGUMENTS

The non-final office action of September 10, 2007 has been carefully reviewed and these remarks are responsive thereto. Claims 1-14, 16-18, 20-28, and 33-42 remain in this application. Applicants have not amended the claims but merely provide a copy for the convenience of the Examiner.

Claims 1-6, 8-15, 18-22, 24-38, and 40 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,352,479 to Sparks, II (hereinafter referred to as "*Sparks*"). Applicants respectfully traverse this rejection.

Applicants' claim 1 recites, among other features, "receiving at least one response to at least one query about the first online game experience following completion of the first online game; determining a play style parameter of a requesting user based on the at least one response." *Sparks* fails to teach or suggest such features.

Sparks describes a matching method based on a user's skill level compared with the skill levels of others, the expressed preferences of the user, and the expressed preferences of the other users playing each game. (Col. 6, ll. 23-34). *Sparks* describes matching users according to an algorithm discussed with respect to FIGs. 11A and 11B. (Col. 6, ll. 18-23). As described with respect to FIGs. 11A and 11B, the determination is made by comparing the user's relative successes during previous attempts at playing each game. (Col. 6, ll. 59-61).

In rejecting these features of Applicants' claim 1, the Action cites Figures 6A and 6B and column 5, lines 5-25 and column 6, lines 23-33 for support. Specifically, the Action relies on column 5, lines 19-22. Column 5, lines 18-25 of *Sparks* reads:

At step 110, the WWW server 12 reviews the user's previously stored personal statistics and game preferences. This information was obtained during a previous initial visit and subsequent visits by the user to the web site 46. The WWW server 12 prompts the user for new preferences, if any. The user enters new preferences, such as a preferred type of new game or a new weapon. The WWW server 12 then uses this information to match the available games on the game servers 14 to the user at step 112.

As recited, *Sparks* describes maintaining statistics and game preferences. However, any expressed preferences of a user or expressed preference of other players is only with respect to weapon choice for a game or skill level to participate. A user is never questioned about an

online gaming experience. At best, *Sparks* allows a pre-configured profile of a user with skill level options and weapon's choice (i.e., preferences) options dictate matching a user to a game. There is no teaching or suggestion in *Sparks* of, "receiving at least one response to at least one query about the first online game experience following completion of the first online game; determining a play style parameter of a requesting user based on the at least one response."

The Action further states that "[b]esides the teaching of *Sparks*, it is apparent and obvious to Examiner that the only way information about a user can be used for subsequent games in an online environment is by the information and play style to be gotten from the user from and based on their previous game play." (Action, pp. 2-3). Applicants respectfully disagree with this assertion. First, it is simply not true that getting previous game play information is "the only way" information about a user can be used for subsequent games. Pages 1-2 of the attached Appendix is a printout from a website describing a role playing computer game entitled, "Age of Empires." Page 3 illustrates that this printout shows what the website appears as on December 4, 2003. Gamers of Age of Empires choose one a number of empires to play a game with and preferences such as number of enemy civilizations, such as Greek or Roman, and land/battleground surfaces, such as forest or desert. Without ever playing the game a first time, a user may enter these certain choices. As such, this alone illustrates that the Action statement that, "it is apparent and obvious to Examiner that the only way information about a user can be used for subsequent games in an online environment is by the information and play style to be gotten from the user from and based on their previous game play," is simply not true.

Second, Applicants' claim 1 recites, "receiving at least one response to at least one query about the first online game experience following completion of the first online game; determining a play style parameter of a requesting user based on the at least one response." *Sparks* shows that, prior to starting a new game, a user can change his/her weapon of choice. Column 6, lines 6-17 describes the entry of game preferences for a user. There is nothing in this portion, nor any other portion, of *Sparks* to teach or suggest Applicants' claim 1 features recited above.

As such, because *Sparks* fails to teach or suggest each and every feature of Applicants' claim 1, withdrawal of the rejection is respectfully requested.

Independent claims 18 and 26 include similar features as described above with respect to Applicants' independent claim 1. Therefore, for at least similar reasons as described above with respect to claim 1, Applicants' claims 18 and 26 are patentably distinct from *Sparks*.

Claims 2-6, 8-14, 20-22, 24-25, 27-28, 33-38, and 40, which ultimately depend from claims 1, 18, or 26, are patentably distinct from *Sparks* for at least the same reasons as their ultimate base claims and further in view of the additional advantageous features recited therein.

Claims 16 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,203,433 to Kume (hereinafter referred to as "*Kume*") in view of *Sparks*. Applicants respectfully traverse.

Amended independent claim 16 includes similar features as described above with respect to Applicants' independent claim 1. *Kume* fails to cure the deficiencies of *Sparks* as noted above with respect to Applicants' claim 1. Therefore, for at least similar reasons as described above with respect to claim 1, Applicants' claim 16 is patentably distinct from *Sparks* and *Kume*.

Claims 7 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sparks* in view of U.S. Published Application No. 2002-0083179 to Shaw (hereinafter referred to as "*Shaw*"). Applicants respectfully traverse this rejection.

Even assuming, without admitting, that the combination of *Sparks* and *Shaw* is proper, *Shaw* fails to remedy the deficiencies of *Sparks* identified with respect to amended claims 1 and 18 from which claims 7 and 23 depend, respectively. Namely, *Shaw* does not teach or suggest, "receiving at least one response to at least one query about the first online game experience following completion of the first online game; determining a play style parameter of a requesting user based on the at least one response." Therefore, claims 7 and 23 are patentably distinct from the combination of *Sparks* and *Shaw*.

Claims 39 and 41-42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sparks* in view of U.S. Patent No. 6,216,112 to Fuller (hereinafter referred to as "*Fuller*"). Applicants respectfully traverse this rejection.

Applicants fail to appreciate any motivation to combine the two references or anyway of how *Fuller* helps to cure the deficiencies of *Sparks*. "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning

with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn* 441 F.3d 997, 998 (CA Fed. 2006). In rejecting these features, that Action merely states that one would have been motivated to combine *Sparks* and *Fuller*, “to have a network gaming system with surveys and questions asked upon conclusion of the game so as to get a response needed in matchmaking players and users in the gaming environment.” (Action, pp. 11-12). Yes this is an unsupported assertion that is based upon nothing more than hindsight in having read Applicants’ written description. The two references of *Sparks* and *Fuller* are completely different. *Sparks* does relate to online gaming; however, *Fuller* relates to interactive advertisements where a user may be questioned as to what color automobile they prefer. (Col. 15, ll. 38-41, relied upon in the Action for support in rejecting Applicants’ claims 39 and 41-42). Just like *Sparks* fails to do, *Fuller* fails to teach or suggest anything with respect to querying a user about an online gaming experience following completion of an online game. As such, there is not motivation to combine *Sparks* and *Fuller*. In addition, *Fuller* fails to cure the deficiencies of *Sparks* as noted above with respect to Applicants’ claim 1. Therefore, as claims 39 and 41-42 depend from claim 1, for at least the same reasons as their ultimate base claim, Applicants’ claims 39 and 41-42 is patentably distinct from *Sparks* and *Fuller*.

CONCLUSION

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. Should the Examiner find that a telephonic or personal interview would expedite passage to issue of the present application, the Examiner is encouraged to contact the undersigned attorney at the telephone number indicated below. If any fees are required or if an overpayment has been made the Commissioner is authorized to charge or credit Deposit Account No. 19-0733.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: December 10, 2007

By: /John M. Fleming/

John M. Fleming

Registration No. 56,536

1100 13th Street, N.W.
Suite 1200
Washington, D.C. 20005-4051
Tel: (202) 824-3000
Fax: (202) 824-3001